

PUBLIC VERSION

DECLARATION OF LIONEL LAVENUE

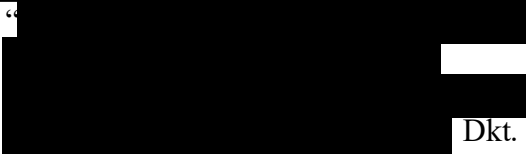
My name is Lionel M. Lavenue. I am over the age of 21 and am competent to make this declaration. The facts stated herein are within my personal knowledge and are true and correct. I am an attorney admitted to practice in this District. I am with the Finnegan, Henderson, Farabow, Garrett & Dunner, LLP law firm.

1. Per the Court's February 12, 2021 standing order regarding sealed filings, Defendants cooperated and timely informed WSOU on Tuesday, June 22, 2021 of 14 issues in WSOU's June 18, 2021 Response sealed filings. Dkt. 86 (case -00487). Defendants informed WSOU that these 14 issues prevented ZTE's good faith efforts in analyzing the public/confidentiality of WSOU's statements in its June 18, 2021 brief. *Id.* Defendants further requested correction and/or explanation from WSOU for those 14 issues. WSOU responded the same day, June 22, and declined to provide explanations, and further declined to address any needed corrections. Defendants then prepared for WSOU's reconsideration an in-depth analysis of several examples of the issues and problem throughout WSOU's June 18th sealed filing, asking for a response/correction. On Wednesday, June 23, WSOU finally acknowledged at least some errors in its June 18th Response sealed filing. WSOU acknowledged that at least one of the 14 issues required correction and, on Thursday, June 24, (a day before the public filing due date and ZTE's reply due date), WSOU unilaterally and without leave filed its corrections. Dkt. 88. Below is a chart representing the true and correct 14 identified issues presented to WSOU by Defendants via electronic communication on June 22, 2021.

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Sections WSOU Represents as Facts without Citations		
Issue No.	WSOU's Statements	Defendants' Reply
1	"2. Warehouses used by ZTE are regularly established places of business of ZTE. The CEVA warehouses in the WDTX are also regularly established places of business of ZTE. The warehouses are physical places that require the regular, physical presence of an employee or other agent of the defendant conducting the defendant's business." Dkt. 85 (case -00487), p. 12.	Please provide an explanation for WSOU's representations regarding any alleged activities in the WDTX, so we may analyze the confidentiality and any needed redacting for this section.
2	"ZTE USA sold and serviced telecommunication equipment in the Western District of Texas. " Dkt. 85 (case -00487), p. 6.	There is no citation or support for this statement. Please provide an explanation for WSOU's representations regarding any alleged activities in the WDTX, so we may analyze the confidentiality and any needed redacting for this section.
3	"The cell towers where ZTE installs and services its equipment are regularly established places of business of ZTE. They consist not only of towers, but of adjacent buildings where ZTE's equipment is stored, as pictured below: [picture]." Dkt. 85 (case -00487), p. 9; <i>see also</i> p. 10 (" housing ZTE's equipment ").	There is no citation or support for this section. Please provide an explanation for WSOU's representations regarding any alleged activity, so we may analyze the confidentiality and any needed redacting for this section.
4	"ZTE products are also sold in multiple stores in the Western District of Texas. " Dkt. 85 (case -00487), p. 7.	There is no citation or support for this section. Please provide an explanation for WSOU's representations regarding any alleged activities in the WDTX, so we may analyze the confidentiality and any needed redacting for this section.

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5	<p>“ZTE jointly developed and markets the GizmoWatch2 with Verizon.” Dkt. 85 (case -00487), p. 7.</p>	<p>There is no citation or support for this section. Please provide an explanation for WSOU’s representations regarding any alleged activity, so we may analyze the confidentiality and any needed redacting for this section.</p>
<p style="text-align: center;">Sections WSOU Represent as Facts with Partial and Faulty Citations</p>		
Issue No.	WSOU's Statements	Defendants' Reply
6	<p>“ Dkt. 85 (case -00487), p. 3.</p>	<p>There is no proper citation for this in-text picture. The in-text picture is not in Ex. 9. In fact, Ex. 9 does not have a 42nd page either. Please provide an explanation for WSOU’s representation regarding the in-text picture so we may analyze the confidentiality and any needed redacting for this section.</p> <p>[Updated] WSOU acknowledge the error of its original filing and, without leave, filed a corrected Exhibit 9 on June 24, 2021. Dkt. 88 (case –00487).</p>
7	<p>“ZTE USA has stored its products in warehouses in Austin and San Antonio. Ex. 11 (map showing locations of warehouses used by ZTE and its logistics partner CEVA).” Dkt. 85 (case -00487), p. 5; <i>see also</i> Loveless Declaration, ¶ 13 (“Exhibit 11 is a true and correct copy of a map showing the locations of warehouses used by ZTE and its logistics partner, Ceva.”)</p>	<p>In particular, WSOU represents that “ZTE USA has stored its products <i>in warehouses in Austin and San Antonio</i> . . .” and that the Ex. 11 map shows locations “<i>used by ZTE</i>,” however, no referenced citation supports these statements regarding ZTE storage in Austin or San Antonio. Please provide an explanation for WSOU’s representations regarding alleged ZTE storage in Austin or San Antonio, so we may analyze the confidentiality and any needed redacting for this section.</p>

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8	<p>“As part of this business model, ZTE USA installed Air to Ground (“ATG”) telecommunications equipment in multiple towers in this District. Ex. 5-8. ZTE’s ATG communication equipment in this District includes software defined radio (“SDR”) base stations and antennas that provide internet access to passengers in airplanes flying overhead. <i>See e.g.</i>, Ex. 7 at 2 (“ZTE will provide up to 3 SDR units”). ZTE USA’s ATG communication equipment is used in a service referred to as “Gogo,” provided by a company with the same name. Ex. 5-8.” Dkt. 85 (case – 00487), pp. 1-2, <i>see also</i> p. 3 (WSOU representing that the exhibits contain photographs of towers “with ZTE USA equipment just southwest of Austin.”</p>	<p>In particular, WSOU represents that “ZTE USA installed” equipment “<i>in this District</i>,” and that the ZTE “ATG communication equipment <i>in this district</i>,” however, none of the referenced exhibits indicate that any equipment was installed/included in this District. Please provide an explanation for WSOU’s representations regarding “in this District,” so we may analyze the confidentiality and any needed redacting for this section.</p>
9	<p>“ZTE USA personnel have access to this restricted area to service ZTE equipment. <i>See</i> Ex. 5-8.” Dkt. 85 (case -00487), p. 3.</p>	<p>The cited Exs. 5-8 do not discuss “access to restricted area.” Please provide an explanation for WSOU’s representation regarding “access to restricted area,” so we may analyze the confidentiality and any needed redacting for this section.</p>
10	<p>“ZTE’s logistic partner for both importation into the U.S. and the ultimate delivery to end-consumers is a company called CEVA. <i>See</i> Ex. 12 (Article: “CEVA honored by ZTE with Best Logistics Partner award – references a “highly effective supply chain from the manufacturing right through to delivery to the U.S. market”); Ex. 14. Dkt. 85 (case - 00487), p. 5.</p>	<p>The cited Exs. 12-14 do not provide support for deliver to “end-consumers” as WSOU represents. Please provide an explanation for WSOU’s representations regarding delivery to “end-consumers,” so we may analyze the confidentiality and any needed redacting for this section.</p>

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11	<p>“ZTE uses CEVA in ‘handl[ing] delivery to ZTE’s USA customers” (Ex. 16 ¶18).” Dkt. 85 (case -00487), p. 5.</p>	<p>The cited declaration, Ex. 16, from 2012 does not provide support for present tense “use,” nor does it provide support for logistical support from CEVA. Please provide an explanation for WSOU’s representations regarding <i>current</i> (i.e. present tense), logistical support, so we may analyze the confidentiality and any needed redacting for this section.</p>
12	<p>“[REDACTED]” Dkt. 85 (case -00487), pp. 6-7.</p>	<p>Again, the cited exhibit does not provide support present tense “use,” with respect to logistical third-party Ceva. Please provide an explanation for WSOU’s representations regarding <i>current</i> (i.e. present tense) logistical support with Ceva, so we may analyze the confidentiality and any needed redacting for this section.</p>
13	<p>“In early 2020, ZTE was selling the Axon 10 pro from its website. Ex. 18.” Dkt. 85 (case -00487), p. 6.</p>	<p>The cited exhibit does not provide support for “selling.” There is a distinction between “offering for sale” and “selling.” Please provide an explanation for WSOU’s representation of “selling,” so we may analyze the confidentiality and any needed redacting for this section.</p>
Sections WSOU Represent as Facts with Partial and Faulty Citations		
Issue No.	WSOU's Statements	Defendants' Reply

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14	<p>“ [REDACTED] ” Dkt. 85 (case -00487), p. 6.</p>	<p>There is no citation for the above section and it is unclear which parts WSOU represents as fact and which parts WSOU represents as “on information and belief.” For instance, it is unclear whether WSOU represents as fact that ZTE had warehouses in Austin and San Antonio, [REDACTED] [REDACTED] and vice versa for what WSOU has “upon information and belief.” As such, please provide an explanation for any of WSOU’s allegedly factual or speculative statements from above, so we may analyze the confidentiality and any needed redacting for this section.</p>
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2. As of the filing of this Reply brief, WSOU has not responded regarding the remaining 13 identified issues as initially raised by Defendants on June 22, 2021.

/s/Lionel M. Lavenue

Lionel M. Lavenue